



MICHIGAN
HOUSE OF REPRESENTATIVES
P.O. Box 30014
LANSING, MICHIGAN 48909-7514

MINUTES OF THE COMMITTEE
ON
LAW AND JUSTICE

Tuesday, March 14, 2017 9:00 a.m. Room 327 House Office Building

The House Standing Committee on Law and Justice was called to order by Chairman Kesto.

Members present: Reps. Kesto, Lucido, Graves, Howrylak, Roberts, Theis, Albert, Chang, Robinson, Guerra, Liberati, Wittenberg.

Members absent/excused: None.

Representative Lucido moved to adopt the minutes of March 7, 2017. There being no objection, the motion prevailed by unanimous consent.

Chairman Kesto laid the following bills before the committee:

HB 4212 (Lucido)	Crimes; intoxication or impairment; requirement that peace officer require certain drivers to submit to a preliminary chemical breath analysis; modify.
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HB 4213 (Lucido)	Liquor; drinking age; obtaining court order before nonconsensual preliminary chemical breath testing of a minor; require.
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Representative Lucido testified in support of the bills. Questions and discussion followed.

Sgt. Matt Williams, representing the Michigan State Police, testified in opposition to HB 4212. Questions and discussion followed.

Chris Anderson, representing the Eaton County Prosecutor's Office, submitted a card in opposition to HB 4212, but did not wish to speak.

Sgt. Matt Williams, representing the Michigan State Police, submitted a card with no position on HB 4213, but did not wish to speak.

John Shea, representing the Criminal Defense Attorneys of Michigan, submitted a card in support of the bills, but did not wish to speak.

Ben Bodkin, representing the Michigan Sheriffs' Association, submitted a card in opposition to the bills, but did not wish to speak.

Chairman Kesto laid the committee at ease, the time being 9:49 a.m.

Chairman Kesto called the committee back to order, the time being 9:57 a.m.

Chairman Kesto laid the following bill before the committee:

HB 4119 (Iden) Crimes; other; detainee or prisoner in holding cell, jail, or correctional facility throwing bodily material on certain individuals; prohibit, and provide a penalty.

The following people submitted a card in support of the bill, but did not wish to speak:

Sgt. Matt Williams, representing the Michigan State Police.

Ben Bodkin, representing the Michigan Sheriffs' Association.

Megan Noland, representing the Oakland County Sheriff's Office.

Kimberly Buddin, representing the American Civil Liberties Union of Michigan, submitted a card in opposition to the bill, but did not wish to speak.

Chairman Kesto offered the following amendments to HB 4119:

1. Amend page 1, line 2, after "**WHO**" by striking out the balance of the subsection and inserting "**DOES EITHER OF THE FOLLOWING IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH:**

(A) **KNOWINGLY THROWS OR ATTEMPTS TO THROW ANY BODILY MATERIAL, AND THAT BODILY MATERIAL COMES INTO CONTACT WITH ANY EMPLOYEE OR VOLUNTEER PERFORMING HIS OR HER DUTIES IN THAT HOLDING CELL, HOLDING CENTER, LOCKUP, JAIL, OR STATE CORRECTIONAL FACILITY.**

(B) **KNOWINGLY CAUSES OR ATTEMPTS TO CAUSE ANY EMPLOYEE OR VOLUNTEER PERFORMING HIS OR HER DUTIES IN THAT HOLDING CELL, HOLDING CENTER, LOCKUP, JAIL, OR STATE CORRECTIONAL FACILITY TO COME INTO CONTACT WITH ANY BODILY MATERIAL."**

2. Amend page 2, line 9, after "**SALIVA,**" by inserting "**SEMEN,**".

Representative Graves moved to adopt the amendments to the bill. The motion prevailed, the vote being 11-1-0.

FAVORABLE ROLL CALL

Yeas: Reps. Kesto, Lucido, Graves, Howrylak, Roberts, Theis, Albert, Chang, Guerra, Liberati, Wittenberg.

Nays: Rep. Robinson.

Pass: None.

Representative Howrylak offered the following amendment to HB 4119:

1. Amend page 2, following line 3, by inserting:

"(2) This section does not apply to a prisoner or detainee who violates subsection (1) because he or she has a mental illness or intellectual disability for which he or she has received a diagnosis by a mental health professional or for which he or she is currently receiving treatment by a mental health professional." and renumbering the remaining subsections.

Representative Howrylak moved to adopt the amendment to the bill. The motion prevailed, the vote being 12-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Kesto, Lucido, Graves, Howrylak, Roberts, Theis, Albert, Chang, Robinson, Guerra, Liberati, Wittenberg.

Nays: None.

Pass: None.

Representative Howrylak offered the following amendment to HB 4119:

1. Amend page 2, following line 13, by inserting:

"(C) "INTELLECTUAL DISABILITY" MEANS THAT TERM AS DEFINED IN SECTION 100B OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.

(D) "MENTAL HEALTH PROFESSIONAL" MEANS THAT TERM AS DEFINED IN SECTION 100B OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.

(E) "MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN SECTION 400 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1400."

Representative Howrylak moved to adopt the amendment to the bill. The motion prevailed, the vote being 12-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Kesto, Lucido, Graves, Howrylak, Roberts, Theis, Albert, Chang, Robinson, Guerra, Liberati, Wittenberg.

Nays: None.

Pass: None.

Representative Howrylak offered the following amendment to HB 4119:

1. Amend page 1, line 2, after **"WHO"** by striking out the balance of the subsection and inserting **"DOES EITHER OF THE FOLLOWING IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH:**

(A) KNOWINGLY THROWS OR ATTEMPTS TO THROW ANY BODILY MATERIAL, AND THAT BODILY MATERIAL COMES INTO CONTACT WITH ANY EMPLOYEE OR VOLUNTEER PERFORMING HIS OR HER DUTIES IN THAT

HOLDING CELL, HOLDING CENTER, LOCKUP, JAIL, OR STATE CORRECTIONAL FACILITY.

(B) KNOWLING CAUSES OR ATTEMPTS TO CAUSE ANY EMPLOYEE OR VOLUNTEER PERFORMING HIS OR HER DUTIES IN THAT HOLDING CELL, HOLDING CENTER, LOCKUP, JAIL, OR STATE CORRECTIONAL FACILITY TO COME INTO CONTACT WITH ANY BODILY MATERIAL."

Representative Howrylak moved to adopt the amendment to the bill. The motion did not prevail, the vote being 4-6-2.

UNFAVORABLE ROLL CALL

Yeas: Reps. Howrylak, Robinson, Liberati, Wittenberg.

Nays: Reps. Kesto, Lucido, Graves, Roberts, Theis, Albert.

Pass: Reps. Chang, Guerra.

Representative Lucido moved to report out HB 4119 with recommendation, as amended, as substitute (H-2). The motion prevailed, the vote being 9-3-0.

FAVORABLE ROLL CALL

Yeas: Reps. Kesto, Lucido, Graves, Howrylak, Roberts, Theis, Albert, Chang, Guerra.

Nays: Reps. Robinson, Liberati, Wittenberg.

Pass: None.

Chairman Kesto laid the following bill before the committee:

HB 4118 (Kesto)	Civil procedure; other; sentencing guidelines for crime of prisoner in holding cell, jail, or correctional facility throwing bodily material on certain individuals; enact.
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The following people submitted a card in support of the bill, but did not wish to speak:

Ben Bodkin, representing the Michigan Sheriffs' Association.

Megan Noland, representing the Oakland County Sheriff's Office.

Kimberly Buddin, representing the American Civil Liberties Union of Michigan, submitted a card in opposition to the bill, but did not wish to speak.

Chairman Kesto offered the following amendment to HB 4118:

1. Amend page 3, line 13, by striking out all of line 13 and inserting:

"750.411X	PERSON	F	DETAINEE OR PRISONER IN HOLDING CELL, HOLDING CENTER, LOCKUP, JAIL, OR CORRECTIONAL FACILITY EXPOSING
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**EMPLOYEE OR
VOLUNTEER TO BODILY
FLUID 4".**

Representative Lucido moved to adopt the amendment to the bill. The motion prevailed, the vote being 9-2-1.

FAVORABLE ROLL CALL

Yeas: Reps. Kesto, Lucido, Graves, Howrylak, Roberts, Theis, Albert, Chang, Guerra.
Nays: Reps. Robinson, Liberati.
Pass: Rep. Wittenberg.

Representative Lucido moved to report out HB 4118 with recommendation, as amended, as substitute (H-1). The motion prevailed, the vote being 8-3-1.

FAVORABLE ROLL CALL

Yeas: Reps. Kesto, Lucido, Graves, Roberts, Theis, Albert, Chang, Guerra.
Nays: Reps. Robinson, Liberati, Wittenberg.
Pass: Rep. Howrylak.

There being no further business before the committee, Chairman Kesto adjourned the meeting, the time being 10:14 a.m.

Representative Klint Kesto, Chair_____

Melissa Weipert, Committee Clerk
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